

AMENDED IN SENATE JULY 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 717

Introduced by Assembly Member Fuller

February 22, 2007

An act to amend Sections 13953 and 13957 of the Government Code, and to amend Section 216 of the Probate Code, relating to compensation of victims.

LEGISLATIVE COUNSEL'S DIGEST

AB 717, as amended, Fuller. Victims' compensation.

Existing law provides that crime victims may be awarded compensation by the California Victim Compensation and Government Claims Board from the state Restitution Fund for the pecuniary losses they suffer as a direct result of criminal acts. The awarding of compensation is subject to application procedures, eligibility requirements, and specified limits on the amount of compensation, including a limit of \$3,000 for outpatient mental health counseling *for derivative victims not otherwise eligible for reimbursement and victims of unlawful sexual intercourse with a minor*.

This bill would provide that an award for outpatient mental health counseling *for derivative victims not otherwise eligible for reimbursement and victims of unlawful sexual intercourse with a minor* may not exceed ~~\$4,000~~ \$5,000.

Existing law requires that an application for compensation be filed within one year of the date of the crime, one year after the victim attains 18 years of age, or one year of the time injury or death resulting from the crime is discovered, whichever is later.

This bill would provide that an application for compensation based on any of specified crimes involving sex with a minor may be filed any time prior to the victim's 28th birthday.

Existing law authorizes the board to grant an award not to exceed \$2,000 to a victim for expenses of relocation determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the personal safety or emotional well-being of the victim. This payment shall only be awarded to one ~~victim~~ *claimant* per crime giving rise to the relocation.

This bill would authorize granting relocation expenses under these provisions to the crime victim or, if the victim is deceased, a person who resided with the deceased at the time of the crime.

Existing law requires that when a deceased person has an heir who is confined in a correctional facility, the estate attorney or other specified person give the director of the board notice of the decedent's death not later than 90 days after the date of death.

This bill would require that this notice include specified information about the decedent's heir and a copy of the decedent's death certificate.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13953 of the Government Code is
- 2 amended to read:
- 3 13953. (a) An application for compensation shall be filed
- 4 within one year of the date of the crime, one year after the victim
- 5 attains 18 years of age, or one year of the time the victim or
- 6 derivative victim knew or in the exercise of ordinary diligence
- 7 could have discovered that an injury or death had been sustained
- 8 as a direct result of crime, whichever is later. An application based
- 9 on any crime eligible for prosecution under Section 801.1 of the
- 10 Penal Code may be filed any time prior to the victim's 28th
- 11 birthday.
- 12 (b) The board may for good cause grant an extension of the time
- 13 period in subdivision (a). In making this determination, the board
- 14 may consider any relevant factors, including, but not limited to,
- 15 all of the following:

1 (1) A recommendation from the prosecuting attorney regarding
2 the victim's or derivative victim's cooperation with law
3 enforcement and the prosecuting attorney in the apprehension and
4 prosecution of the person charged with the crime.

5 (2) Whether particular events occurring during the prosecution
6 or in the punishment of the person convicted of the crime have
7 resulted in the victim or derivative victim incurring pecuniary loss.

8 (3) Whether the nature of the crime is such that a delayed
9 reporting of the crime is reasonably excusable.

10 (c) The period prescribed in this section for filing an application
11 by or on behalf of a derivative victim shall be tolled when the
12 board accepts the application filed by a victim of the same
13 qualifying crime.

14 SEC. 2. Section 13957 of the Government Code is amended
15 to read:

16 13957. (a) The board may grant for pecuniary loss, when the
17 board determines it will best aid the person seeking compensation,
18 as follows:

19 (1) Subject to the limitations set forth in Section 13957.2,
20 reimburse the amount of medical or medical-related expenses
21 incurred by the victim, including, but not limited to, eyeglasses,
22 hearing aids, dentures, or any prosthetic device taken, lost, or
23 destroyed during the commission of the crime, or the use of which
24 became necessary as a direct result of the crime.

25 (2) Subject to the limitations set forth in Section 13957.2,
26 reimburse the amount of outpatient psychiatric, psychological, or
27 other mental health counseling-related expenses incurred by the
28 victim or derivative victim, including peer counseling services
29 provided by a rape crisis center as defined by Section 13837 of
30 the Penal Code, and including family psychiatric, psychological,
31 or mental health counseling for the successful treatment of the
32 victim provided to family members of the victim in the presence
33 of the victim, whether or not the family member relationship
34 existed at the time of the crime, that became necessary as a direct
35 result of the crime, subject to the following conditions:

36 (A) The following persons may be reimbursed for the expense
37 of their outpatient mental health counseling in an amount not to
38 exceed ten thousand dollars (\$10,000):

39 (i) A victim.

1 (ii) A derivative victim who is the surviving parent, sibling,
2 child, spouse, fiancé, or fiancée of a victim of a crime that directly
3 resulted in the death of the victim.

4 (iii) A derivative victim, as described in paragraphs (1) to (4),
5 inclusive, of subdivision (c) of Section 13955, who is the primary
6 caretaker of a minor victim whose claim is not denied or reduced
7 pursuant to Section 13956 in a total amount not to exceed ten
8 thousand dollars (\$10,000) for not more than two derivative
9 victims.

10 (B) The following persons may be reimbursed for the expense
11 of their outpatient mental health counseling in an amount not to
12 exceed ~~four thousand dollars (\$4,000)~~ *five thousand dollars*
13 *(\$5,000)*:

14 (i) A derivative victim not eligible for reimbursement pursuant
15 to subparagraph (A), provided that mental health counseling of a
16 derivative victim described in paragraph (5) of subdivision (c) of
17 Section 13955, shall be reimbursed only if that counseling is
18 necessary for the treatment of the victim.

19 (ii) A victim of a crime of unlawful sexual intercourse with a
20 minor committed in violation of subdivision (d) of Section 261.5
21 of the Penal Code. A derivative victim of a crime committed in
22 violation of subdivision (d) of Section 261.5 of the Penal Code
23 shall not be eligible for reimbursement of mental health counseling
24 expenses. The total award to or on behalf of a victim of a crime
25 committed in violation of subdivision (d) of Section 261.5 of the
26 Penal Code may not exceed ~~four thousand dollars (\$4,000)~~ *five*
27 *thousand dollars (\$5,000)* for mental health counseling expenses
28 only.

29 (C) The board may reimburse a victim or derivative victim for
30 outpatient mental health counseling in excess of that authorized
31 by subparagraphs (A) or (B) or for inpatient psychiatric,
32 psychological, or other mental health counseling if the claim is
33 based on dire or exceptional circumstances that require more
34 extensive treatment, as approved by the board.

35 (D) Expenses for psychiatric, psychological, or other mental
36 ~~health-counseling-related~~ *counseling-related* services may be
37 reimbursed only if the services were provided by either of the
38 following individuals:

1 (i) A person who would have been authorized to provide those
2 services pursuant to the provisions of former Article 1
3 (commencing with Section 13959) as it read on January 1, 2002.

4 (ii) A person who is licensed by the state to provide those
5 services, or who is properly supervised by a person who is so
6 licensed, subject to the board's approval and subject to the
7 limitations and restrictions the board may impose.

8 (3) Reimburse the expenses of nonmedical remedial care and
9 treatment rendered in accordance with a religious method of healing
10 recognized by state law.

11 (4) Subject to the limitations set forth in Section 13957.5,
12 authorize compensation equal to the loss of income or loss of
13 support, or both, that a victim or derivative victim incurs as a direct
14 result of the victim's or derivative victim's injury or the victim's
15 death. If the victim or derivative victim requests that the board
16 give priority to reimbursement of loss of income or support, the
17 board may not pay medical expenses, or mental health counseling
18 expenses, except upon the request of the victim or derivative victim
19 or after determining that payment of these expenses will not
20 decrease the funds available for payment of loss of income or
21 support.

22 (5) Authorize a cash payment to or on behalf of the victim for
23 job retraining or similar employment-oriented services.

24 (6) Reimburse the claimant for the expense of installing or
25 increasing residential security, not to exceed one thousand dollars
26 (\$1,000). Reimbursement shall be made either upon verification
27 by law enforcement that the security measures are necessary for
28 the personal safety of the claimant or verification by a mental
29 health treatment provider that the security measures are necessary
30 for the emotional well-being of the claimant. For purposes of this
31 paragraph, a claimant is the crime victim, or, if the victim is
32 deceased, a person who resided with the deceased at the time of
33 the crime. Installing or increasing residential security may include,
34 but need not be limited to, both of the following:

35 (A) Home security device or system.

36 (B) Replacing or increasing the number of locks.

37 (7) Reimburse the expense of renovating or retrofitting a
38 victim's residence or a vehicle, or both, to make the residence, the
39 vehicle, or both, accessible or the vehicle operational by a victim
40 upon verification that the expense is medically necessary for a

1 victim who is permanently disabled as a direct result of the crime,
2 whether the disability is partial or total.

3 (8) (A) Authorize a cash payment or reimbursement not to
4 exceed two thousand dollars (\$2,000) to a victim for expenses
5 incurred in relocating, if the expenses are determined by law
6 enforcement to be necessary for the personal safety of the victim
7 or by a mental health treatment provider to be necessary for the
8 emotional well-being of the victim.

9 (B) The cash payment or reimbursement made under this
10 paragraph shall only be awarded to one claimant per crime giving
11 rise to the relocation. The board may authorize more than one
12 relocation per crime if necessary for the personal safety or
13 emotional well-being of the claimant. However, the total cash
14 payment or reimbursement for all relocations due to the same crime
15 shall not exceed two thousand dollars (\$2,000). For purposes of
16 this paragraph, a claimant is the crime victim, or, if the victim is
17 deceased, a person who resided with the deceased at the time of
18 the crime.

19 (C) The board may, under compelling circumstances, award a
20 second cash payment or reimbursement to a victim for another
21 crime if both of the following conditions are met:

22 (i) The crime occurs more than three years from the date of the
23 crime giving rise to the initial relocation cash payment or
24 reimbursement.

25 (ii) The crime does not involve the same offender.

26 (D) When a relocation payment or reimbursement is provided
27 to a victim of sexual assault or domestic violence and the identity
28 of the offender is known to the victim, the victim shall agree not
29 to inform the offender of the location of the victim's new residence
30 and not to allow the offender on the premises at any time, or shall
31 agree to seek a restraining order against the offender.

32 (9) When a victim dies as a result of a crime, the board may
33 reimburse any individual who voluntarily, and without anticipation
34 of personal gain, pays or assumes the obligation to pay any of the
35 following expenses:

36 (A) The medical expenses incurred as a direct result of the crime
37 in an amount not to exceed the rates or limitations established by
38 the board.

1 (B) The funeral and burial expenses incurred as a direct result
2 of the crime, not to exceed seven thousand five hundred dollars
3 (\$7,500).

4 (10) When the crime occurs in a residence, the board may
5 reimburse any individual who voluntarily, and without anticipation
6 of personal gain, pays or assumes the obligation to pay the
7 reasonable costs to clean the scene of the crime in an amount not
8 to exceed one thousand dollars (\$1,000). Services reimbursed
9 pursuant to this subdivision shall be performed by persons
10 registered with the State Department of Health Care Services as
11 trauma scene waste practitioners in accordance with Chapter 9.5
12 (commencing with Section 118321) of Part 14 of Division 104 of
13 the Health and Safety Code.

14 (11) Reimburse the licensed child care expenses necessarily
15 incurred by a victim or derivative victim as a direct result of a
16 crime that resulted in physical injury or death, if the following
17 conditions are met:

18 (A) The injured or deceased victim was a primary caregiver for
19 the victim's dependent children.

20 (B) The total reimbursement for all child care expenses does
21 not exceed five thousand dollars (\$5,000). The board shall have
22 the ability to set a lower reimbursement amount if necessary to
23 protect the solvency of the Restitution Fund.

24 (C) The periods of time for which child care expenses may be
25 reimbursed do not exceed a total of 180 days. The time periods
26 need not be continuous.

27 (D) The child care expenses are consistent with the usual and
28 customary rates charged by the child care provider for other
29 children in the provider's care. If the provider only cares for the
30 victim's children, the reimbursement rate shall not exceed two
31 hundred dollars (\$200) per week for one child or four hundred
32 dollars (\$400) per week for two or more children subject to the
33 limit in subparagraph (E).

34 (E) No victim or derivative victim may receive reimbursement
35 for child care expenses in addition to reimbursement subject to
36 paragraph (4).

37 (F) This paragraph is a pilot program and shall be operative
38 only until January 1, 2010.

39 (b) The total award to or on behalf of each victim or derivative
40 victim may not exceed thirty-five thousand dollars (\$35,000),

1 except that this amount may be increased to seventy thousand
2 dollars (\$70,000) if federal funds for that increase are available.

3 SEC. 3. Section 216 of the Probate Code is amended to read:

4 216. When a deceased person has an heir who is confined in
5 a prison or facility under the jurisdiction of the Department of
6 Corrections and Rehabilitation, or its Division of Juvenile
7 Facilities, or confined in any county or city jail, road camp,
8 industrial farm, or other local correctional facility, the estate
9 attorney, or if there is no estate attorney, the beneficiary, the
10 personal representative, or the person in possession of property of
11 the decedent shall give the Director of the California Victim
12 Compensation and Government Claims Board notice of the
13 decedent's death not later than 90 days after the date of death. The
14 notice shall be given as provided in Section 1215 and shall include
15 all of the following:

16 (a) The name, date of birth, and location of incarceration of the
17 decedent's heir.

18 (b) The heir's CDCR number if incarcerated in a Department
19 of Corrections and Rehabilitation facility or booking number if
20 incarcerated in a county facility.

21 (c) A copy of the decedent's death certificate.

22 (d) The probate case number, and the name of the superior court
23 hearing the case.